IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 8713 of 2007(K)

PETITIONER:

V-TRADERS, XL/40/9192, DORAISWAMY IYER ROAD, KOCHI- 682 035.

BY ADV. SRI.JOSEPH JERARD SAMSOM RODRIGUES

RESPONDENTS:
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1. ASSISTANT COMMISSIONER(AUDIT ASSESSMENT) COMMERCIAL TAXES, ERNAKULAM.

2. DEPUTY COMMISSIONER (APPEALS)-II, DEPT. OF COMMERCIAL TAXES, ERNAKULAM.

3. INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM, KOCHI-682 030.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.8713 of 2007-K

Dated this the 15th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P8 interim order by which it has been directed to pay 40% of the balance tax due. According to the petitioner, the disallowance of an amount of Rs.9,12,672/- covered by debit notes issued by Canon India Pvt. Ltd is unjustified in view of Sec.41 of the Kerala Value Added Tax Act. Other defects in the assessment orders are also pointed out by the petitioner. If those defects are taken note of, the petitioner submits, the tax liability will considerably come down. So, the interim order should have been granted on more liberal terms, it is submitted.

2. I heard the learned Government Pleader for the respondents.

3. Going by the contentions raised by the petitioner, I feel that it is entitled to get some more relief as part of the interim order. On accepting the contentions of the petitioner, prima facie, I feel that the balance tax payable by it may come about only Rs.4 lakhs. Therefore, it is ordered that if the petitioner pays Rs.2 lakhs (Rupees two lakhs only) on or before 31-3-2007 and Rs.2 lakhs (Rupees two lakhs only) before 30-4-2007, further recovery pursuant to Ext.P1 assessment order will remain in abeyance till the disposal of the appeal filed

against it. It is made clear that I have not expressed any opinion on the merits of the appeal or the liability of the petitioner. The observations made by me will not bind the appellate authority or the petitioner while the appeal is finally heard and disposed of.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS